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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,703

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Virgil Dean Haverdink

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EXAMINER

GREENHUT, CHARLES N

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/803,703	Applicant(s) HAVERDINK ET AL.	
	Examiner Charles N. Greenhut	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

I. Claim Objections

1. The following objections are set forth to clarify that there is only a single slit made in the protective wrap, as opposed to, any number of slits, made only in the protective wrap. The objections are made in order for the claim language to agree with applicants remarks submitted 4/7/06.

1.1. Claim 11 is objected to because, “severing a lowermost portion only the protective wrap” in line 7-8, should read, - -severing only a lowermost portion of the protective wrap- -.

1.2. Claim 12 is objected to because, “and providing a single slit only in the protective wrap” in line 3, should read, - -and providing only a single slit in the protective wrap- -.

II. Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 14, and 21-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claim 14 is incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. Applicant provides no detail as to how the “tensioning structure” in line 3 is integrated into the apparatus, i.e., what the “tensioning structure” is a component of.

1.2. Claim 14 recites the limitation, “the tensioned portion of the wrap” in line 4. There is insufficient antecedent basis for this limitation in the claim since there has been no prior recitation of tensioning a portion of the wrap, merely a “tensioning structure” provided therefor.

1.3. Claim 21 recites the limitation, “the tensioned area of the wrap” in line 7. There is insufficient antecedent basis for this limitation in the claim since there has been no prior recitation of tensioning an area of the wrap, merely a “bale supports” provided therefor.

III. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 11-16, and 18-28 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over DEUTSCH in view of LAMBERT (US 3,853,235 A).

1.1. With respect to claims 11-16, and 18-20 DEUTSCH discloses a flexible protective wrap containing cotton defining a bale for moving cotton to a gin for processing (Col. 1-2). DEUTSCH fails to disclose a conveying structure, a separating structure a wrap engaging structure. LAMBERT discloses a conveying structure including a conveyor (6), a separating structure including a cutter/knife (24)/(24') adjacent the receiver inlet in the bale's path (Figs. 1-2), a wrap support including an elongated member (42)/(42') and a wrap processing structure (at 4e). It would have been

obvious to one of ordinary skill in the art to open the wrapped bales of cotton of DEUTSCH using the apparatus of LAMBERT in order to facilitate separate processing of the package and its contents.

1.2. With respect to claims 21-28, DEUTSCH discloses a protective wrap defining a deformable cotton bale for movement of cotton to a gin for processing (Col. 1-2). DEUTSCH fails to disclose a conveying structure, a separating structure a wrap engaging structure. LAMBERT discloses a conveyor (6), bale handler (10)/(20), with spreadable supports (Fig. 9-10), cutter (24)/(24'), vacuum (Col. 7 Li. 2), retractable wrap engaging means (Figs. 9-10) having an elongated member (44)/(44').

2. Claim(s) 17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over DEUTSCH in view of LAMBERT and further in view of LANDE (US 5,282,713 A).

2.1. With respect to claim 17, DEUTSCH fails to teach an air duct. LANDE teaches an air duct (Col. 7 Li 27 et seq.). It would have been obvious to one of ordinary skill in the art to modify DEUTSCH in view of LAMBERT with the duct of LANDE in order to facilitate separate processing of the package and its contents.

IV. Response to Applicant's Arguments

Applicant's arguments entered 4/7/06 have been fully considered.

1. Applicant argues that claims 1-10, as amended, are allowable because the prior art fails to show or suggest inserting an elongated wrap engaging structure into a cotton bale, tensioning a lower portion of the wrap using a lower wrap engaging structure, moving the tensioned lower portion of the protective wrap in a conveying direction against a severing device and

draping the protective wrap over the wrap engaging structure. This argument is persuasive.

Accordingly the rejections of claims 1-10 are withdrawn.

2. Applicant argues that claims 11-20, as amended, are allowable because the prior art fails to show or suggest a flexible wrap containing cotton, conveying structure, and a separating structure for separating only a lowermost portion of the protective wrap. This argument is not persuasive. LAMBERT does show severing a lowermost portion. LAMBERT additionally shows a tensioning structure, e.g., the knives themselves or the guides, sufficient to meet the limitations of applicant's claim since no specific structure of that element is required by the claim language. With respect to claim 12, the step of providing only a single slit does not distinguish over LAMBERT in an apparatus claim because as long as the apparatus is capable of performing that function it meets the claim limitation, which the LAMBERT structure is. Furthermore, a single slit is, in fact, provided in LAMBERT, albeit multiple times. With respect to claim 15, a wrap support is shown at (42). Examiner acknowledges the difference between the tensioning and severing structure of applicants preferred embodiment and that of the prior art of record, however, additional structural recitations with respect to these elements are necessary in order to define over the prior art of record. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.
3. Applicant argues that claims 21-28, as amended, are allowable because the prior art fails to show or suggest spreadable bale supports providing tension and a cutter. This argument is not persuasive. Figs. 9 and 11 of LAMBERT clearly show spreadable bale supports which will effectively tension the wrap (4) and providing a slit (via 12). Examiner acknowledges the

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difference between the tensioning and severing structure of applicants preferred embodiment and that of the prior art of record, however, additional structural recitations with respect to these elements are necessary in order to define over the prior art of record. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

V. Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.

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4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



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